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T.R.A. DOCKET ROOM

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December 18, 2003

Hon. Pat Miller, Director
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Implementation of the Federal Communications Commission's Triennial Review Order (Nine-month Proceeding) (Loop & Transport)*
Docket No. 03-00527

Dear Director Miller:

This is in response to KMC's letter to you dated December 12, 2003. In that letter, KMC states that it is in agreement "with the general outline being discussed by BellSouth, CompSouth, and AT&T" in the parties' letter to you dated December 12," but requests that you order BellSouth to provide the following information 30 days prior to the filing of direct testimony:

Specifically, KMC proposes that the route identification filing with the TRA identify the following information: (i) the specific customer locations (for loops) and the A to Z central office routes (for transport) where BellSouth intends to challenge the impairment finding, (ii) each trigger (wholesale or self-provisioning) alleged to be satisfied, (iii) the capacity levels (DS1, DS3, or dark fiber) for which BellSouth alleges the triggers are satisfied, and (iv) the facilities-based carriers relied upon as satisfying the triggers, identified by trigger and capacity (e.g., DS3 self-provisioning trigger). In addition, BellSouth previously stated that it had not decided whether to present a case on "potential deployment" of loop or transport routes. In the route identification filing, BellSouth should identify the loop locations and/or transport routes for which it intends to make such a showing and describe the evidence on which it intends to rely.

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BellSouth opposes this request for a number of reasons. First, BellSouth spent a considerable amount of time working with CompSouth and other parties in an effort to formulate the letter that was ultimately filed with you on December 12 and accepted by you as a firm commitment to try the state TRO cases to conclusion during the week of March 29, 2004. KMC, which is a member of CompSouth, should not be heard to request something new outside the scope of the parties' discussions and agreement. There is limited time to accomplish all of the tasks required prior to that hearing, and it would be a poor precedent to allow KMC to unilaterally modify CompSouth's commitment at BellSouth's expense.

Second, while BellSouth will, as you have previously ordered, identify specific routes and customer locations for which the Company intends to undertake a rebuttal of the presumption of impairment, BellSouth has serious concerns that such information can be provided 30 days prior to the date that direct testimony is due.¹ As you will recall, BellSouth and CompSouth, in proposing a schedule to the Authority contemplated filing the direct case in the loop and transport proceeding well after the direct filing in the switching case. This was because the parties understood that the loop and transport case was going to be fact intensive, and that it was going to require time to identify the buildings and routes for which BellSouth intended to challenge the presumption of impairment. Although BellSouth is continuing to work with parties who have received BellSouth's discovery and nonparties who have received subpoenas to develop the information needed to respond to your Order, a number of parties and nonparties have failed to provide the information BellSouth has requested. Indeed, KMC's request is all the more offensive, because KMC has, to this point, failed to respond to the loop and transport discovery that BellSouth served on KMC.

Third, KMC will have the opportunity to rebut BellSouth's loop and transport case in its rebuttal testimony, during the hearing, and in its post-hearing brief. It would seem logical that BellSouth should be allowed to present its case on direct, identifying the locations and routes for which it asserts that there is no impairment. KMC and the other CLECs would then, presumably, attempt to rebut those contentions through submitting rebuttal evidence. Rather than follow this rather obvious course, KMC wants something different, for no seemingly valid reason. KMC's asserted basis for its demand is its claim that its experience in other states

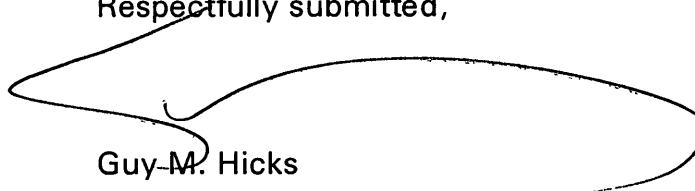
¹ Based on the December 15 TRA conference, BellSouth understand that a modified procedural schedule will be issued by the hearing officer verifying the March 29 hearing date and moving filing requirements back to later dates.

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"has demonstrated that these filings can be useful." This vague assertion is unpersuasive. KMC 's only other argument is that "such a filing also will ease the discovery burdens on all parties, as the number of entities required to provide information and the scope of the relevant inquiry will be less susceptible to dispute." KMC is being disingenuous. Discovery is already well underway. KMC has yet to provide any responses to BellSouth's discovery in the loop and transport docket, notwithstanding the fact that discovery responses were due November 26, 2003. Indeed, it would ease BellSouth's "discovery burden" if KMC would respond to BellSouth's discovery.

In summary, BellSouth requests that you deny KMC's request. A copy of this letter has been provided to counsel for KMC and other parties of record.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read "Guy M. Hicks". The signature is written over the typed name.

Guy-M. Hicks

GH:ch

CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2003, a copy of the foregoing document was served on the parties of record, via the method indicated:

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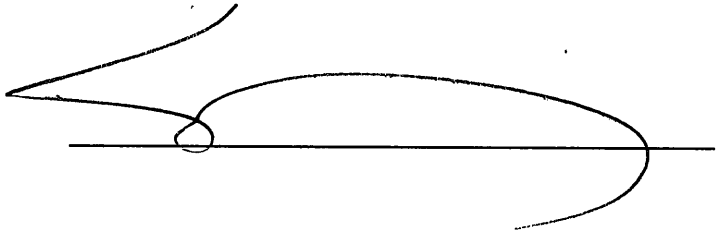
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A handwritten signature in black ink, appearing to be "Ken Woods", written over a horizontal line. The signature is stylized with a large loop and a long horizontal stroke.